

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation/Petition to
11 Revoke Probation Against:

Case No. 2010-503

12 **LEIGH LINDA LYNCH**
13 **P.O. Box 3656**
Clearlake, CA 95422

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

14 **Registered Nurse License No. RN 555458**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation and Petition to
20 Revoke Probation solely in her official capacity as the Interim Executive Officer of the Board of
21 Registered Nursing, Department of Consumer Affairs.

22 2. On or about June 2, 1999, the Board of Registered Nursing issued Registered Nurse
23 License Number RN 555458 to Leigh Linda Lynch (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2010, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Leigh Linda
27 Lynch," Case No. 2007-75, the Board of Registered Nursing issued a decision, effective July 26,
28 2007, in which Respondent's Registered Nurse License was revoked. However, the revocation

1 was stayed and Respondent's license was placed on probation for a period of three (3) years with
2 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
3 by reference.

4 JURISDICTION

5 4. This Accusation and Petition to Revoke Probation is brought before the Board of
6 Registered Nursing (Board), Department of Consumer Affairs, under the authority of the
7 following laws. All section references are to the Business and Professions Code unless otherwise
8 indicated.

9 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
10 that the Board may discipline any licensee, including a licensee holding a temporary or an
11 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
12 Nursing Practice Act.

13 6. Section 2759 of the Code provides, in pertinent part, that the Board may impose
14 discipline upon the holder of a license by placing him on probation.

15 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
16 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
17 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
18 Code, the Board may renew an expired license at any time within eight years after the expiration.

19 STATUTORY AND REGULATORY PROVISIONS

20 8. Section 2761(a) of the Code states, in pertinent part:

21 The board may take disciplinary action against a certified or licensed nurse or deny an
22 application for a certificate or license for any of the following:

23 (a) Unprofessional conduct

24 9. Section 2762 of the Code states:

25 In addition to other acts constituting unprofessional conduct within the meaning of this
26 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
27 following:

28 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed

1 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
2 administer to another, any controlled substance as defined in Division 10 (commencing with
3 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
4 defined in Section 4022.

5 (b) Use any controlled substance as defined in Division 10 (commencing with Section
6 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
7 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
8 himself or herself, any other person, or the public or to the extent that such use impairs his or her
9 ability to conduct with safety to the public the practice authorized by his or her license.

10 (c) Be convicted of a criminal offense involving the prescription, consumption, or self-
11 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
12 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
13 of this section, in which event the record of the conviction is conclusive evidence thereof.

14 (d) Be committed or confined by a court of competent jurisdiction for intemperate use of or
15 addiction to the use of any of the substances described in subdivisions (a) and (b) of this section,
16 in which event the court order of commitment or confinement is prima facie evidence of such
17 commitment or confinement.

18 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
19 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
20 section.

21 COSTS

22 10. Section 125.3(a) of the Code states, in pertinent part:

23 Except as otherwise provided by law, in any order issued in resolution of a disciplinary
24 proceeding before any board within the department . . . the board may request the administrative
25 law judge to direct a licentiate found to have committed a violation or violations of the licensing
26 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
27 case.

28 ///

1 **CAUSE FOR DISCIPLINE**

2 (Dangerous Use of Alcohol)

3 11. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b) of the
4 Code in that she used any controlled substance as defined in Division 10 (commencing with
5 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
6 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
7 injurious to herself, any other person, or the public or to the extent that such use impaired her
8 ability to conduct with safety to the public the practice authorized by her license. The
9 circumstances are as follows:

10 12. On or about October 15, 2009, in Colusa County, California, Respondent drove an
11 automobile while intoxicated or under the influence of drugs (in violation of California Vehicle
12 Code section 23152(a)) and with a blood alcohol level in excess of .08% (in violation of
13 California Vehicle Code section 23152(b)).

14 **PETITION TO REVOKE PROBATION**

15 13. The allegations of paragraphs 1 through 12 of the Accusation/Petition to Revoke
16 Probation are incorporated herein by reference and are realleged as if fully set forth.

17 **CAUSE TO REVOKE PROBATION**

18 (Commission of Crime and Failure to Timely Report)

19 14. At all times after the effective date of Respondent's probation in Case No. 2007-75,
20 **Condition One** stated:

21 **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
22 detailed account of any and all violations of law shall be reported by Respondent to the Board in
23 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
24 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
25 45 days of the effective date of the decision, unless previously submitted as part of the licensure
26 application process.

27 **Criminal Court Orders:** If Respondent is under criminal court orders, including
28 probation or parole, and the order is violated, this shall be deemed a violation of these probation

1 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2 15. At all times after the effective date of Respondent's probation in Case No. 2007-75,

3 **Condition Two Stated:**

4 **Comply with the Board's Probation Program.** Respondent shall fully comply with the
5 conditions of the Probation Program established by the Board and cooperate with representatives
6 of the Board in its monitoring and investigation of the Respondent's compliance with the Board's
7 Probation Program. Respondent shall inform the Board in writing within no more than 15 days of
8 any address change and shall at all times maintain an active, current license status with the Board,
9 including during any period of suspension.

10 Upon successful completion of probation, Respondent's license shall be fully restored.

11 16. Respondent's probation in Case No. 2007-75 is subject to revocation because she
12 failed to comply with Probation Conditions One and Two, referenced above, as follows:

13 17. On or about October 15, 2009, in Colusa County, California, Respondent drove an
14 automobile while intoxicated or under the influence of drugs (in violation of California Vehicle
15 Code section 23152(a)) and with a blood alcohol level in excess of .08% (in violation of
16 California Vehicle Code section 23152(b)). Respondent failed to report this violation of law to
17 the Board within 72 hours.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number RN 555458, issued to
22 Leigh Linda Lynch;

23 2. Revoking the probation that was granted by the Board of Registered Nursing in Case
24 No. 2007-75 and imposing the disciplinary order that was stayed, thereby revoking Registered
25 Nurse License No. 555458, issued to Leigh Linda Lynch;

26 3. Ordering Leigh Linda Lynch to pay the Board of Registered Nursing the reasonable
27 costs of the investigation and enforcement of this case, pursuant to Business and Professions
28 Code section 125.3;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. Taking such other and further action as deemed necessary and proper.

DATED: 4/13/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

EXHIBIT A

DECISION AND ORDER

BOARD OF REGISTERED NURSING CASE NO. 2007-75

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LEIGH LINDA LYNCH
Box 3656
Clearlake, CA 95422

Case No. 2007-75

OAH No. 2006120190

Registered Nurse License No. 555458

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 26, 2007.

It is so ORDERED June 26, 2007.

LaTrance Kate
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **LEIGH LINDA LYNCH**
Box 3656
14 4059 Oak Avenue
Clearlake, CA 95422

15 Registered Nurse License No. 555458

16 Respondent.

Case No. 2007-75

OAH No. 2006120190

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N (Complainant) is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by Jonathan D. Cooper, Deputy Attorney General.

26 2. Respondent Leigh Linda Lynch (Respondent) is represented in this
27 proceeding by attorney Edgardo Gonzalez, Esq., whose address is 1300 Clay Street, Suite 600
28 Oakland, California 94612.

1 3. On or about June 2, 1999, the Board of Registered Nursing issued
2 Registered Nurse License No. 555458 to Leigh Linda Lynch (Respondent). The License was in
3 full force and effect at all times relevant to the charges brought in Accusation No. 2007-75 and
4 will expire on November 30, 2008, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 2007-75 was filed before the Board of Registered Nursing
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 October 10, 2006. Respondent timely filed her Notice of Defense contesting the Accusation. A
10 copy of Accusation No. 2007-75 is attached as exhibit A and incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, discussed with counsel, and fully
13 understands the charges and allegations in Accusation No. 2007-75. Respondent has also
14 carefully read, discussed with counsel, and fully understands the effects of this Stipulated
15 Settlement and Disciplinary Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
19 the right to present evidence and to testify on her own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 **AMENDMENT OF ACCUSATION**

26 8. Paragraphs 13 and 15 of the Accusation are amended to correct the dates
27 reflected therein. Both paragraphs are amended to state dates of "on or about January, 2003
28 through April, 2003" instead of "on or about January, 2003 through April, 2004."

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 2007-75.

4 10. Respondent agrees that her Registered Nurse License is subject to
5 discipline and she agrees to be bound by the Board of Registered Nursing (Board) 's imposition
6 of discipline as set forth in the Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Registered
9 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
10 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
11 and settlement, without notice to or participation by Respondent or her counsel. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 OTHER MATTERS

19 12. The parties understand and agree that facsimile copies of this Stipulated
20 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
21 force and effect as the originals.

22 DISCIPLINARY ORDER

23 In consideration of the foregoing admissions and stipulations, the parties agree
24 that the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:

26 IT IS HEREBY ORDERED that Registered Nurse License No. 555458, issued to
27 Respondent Leigh Linda Lynch (Respondent), is revoked. However, the revocation is stayed and
28 Respondent is placed on probation for three (3) years on the following terms and conditions.

1 **Severability Clause.** Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. **Report in Person.** Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when she resides outside

1 of California. Respondent must provide written notice to the Board within 15 days of any change
2 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
6 provide information regarding the status of each license and any changes in such license status
7 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
8 new nursing license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation,
10 shall submit or cause to be submitted such written reports/declarations and verification of actions
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation
13 Program. Respondent shall immediately execute all release of information forms as may be
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency
16 in every state and territory in which she has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
25 Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of her good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 **7. Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to her employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after she obtains any nursing or other health care related employment.
13 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
14 terminated or separated, regardless of cause, from any nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination or
16 separation.

17 **8. Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes patient
20 care.

21 Respondent shall practice only under the direct supervision of a registered nurse
22 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
23 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
24 are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

27 (a) Maximum - The individual providing supervision and/or collaboration is
28 present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health
6 care setting, the individual providing supervision and/or collaboration shall have person-to-
7 person communication with Respondent as required by the Board each work day. Respondent
8 shall maintain telephone or other telecommunication contact with the individual providing
9 supervision and/or collaboration as required by the Board during each work day. The individual
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse
16 unless the registered nursing supervision and other protections for home visits have been
17 approved by the Board. Respondent shall not work in any other registered nursing occupation
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing
23 or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the
27 Board may request documentation to determine whether there should be restrictions on the hours
28 of work.

1 10. **Complete a Nursing Course.** Respondent, at her own expense, shall
2 enroll and successfully complete a course relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course. Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above required course. The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$4,300.00. Respondent shall be permitted to pay these costs in a payment plan
11 approved by the Board, with payments to be completed no later than three months prior to the
12 end of the probation term.

13 If Respondent has not complied with this condition during the probationary term,
14 and Respondent has presented sufficient documentation of her good faith efforts to comply with
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may
16 grant an extension of Respondent's probation period up to one year without further hearing in
17 order to comply with this condition. During the one year extension, all original conditions of
18 probation will apply.

19 12. **Violation of Probation.** If Respondent violates the conditions of her
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
21 aside the stay order and impose the stayed discipline of Respondent's license.

22 If during the period of probation, an accusation or petition to revoke probation has
23 been filed against Respondent's license or the Attorney General's Office has been requested to
24 prepare an accusation or petition to revoke probation against Respondent's license, the
25 probationary period shall automatically be extended and shall not expire until the accusation or
26 petition has been acted upon by the Board.

27 13. **License Surrender.** During Respondent's term of probation, if she ceases
28 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

1 probation, Respondent may surrender her license to the Board. The Board reserves the right to
2 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
3 take any other action deemed appropriate and reasonable under the circumstances, without
4 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
5 will no longer be subject to the conditions of probation.

6 Surrender of Respondent's license shall be considered a disciplinary action and
7 shall become a part of Respondent's license history with the Board. A registered nurse whose
8 license has been surrendered may petition the Board for reinstatement no sooner than the

9 following minimum periods from the effective date of the disciplinary decision:

10 (1) Two years for reinstatement of a license that was surrendered for any
11 reason other than a mental or physical illness; or

12 (2) One year for a license surrendered for a mental or physical illness.

13 14. **Mental Health Examination.** Respondent shall, within 45 days of the
14 effective date of this Decision, have a mental health examination including psychological testing
15 as appropriate to determine her capability to perform the duties of a registered nurse. The
16 examination will be performed by a psychiatrist, psychologist or other licensed mental health
17 practitioner approved by the Board. The examining mental health practitioner will submit a
18 written report of that assessment and recommendations to the Board. All costs are the
19 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
20 result of the mental health examination will be instituted and followed by Respondent.

21 If Respondent is determined to be unable to practice safely as a registered nurse,
22 the licensed mental health care practitioner making this determination shall immediately notify
23 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
24 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
25 practice and may not resume practice until notified by the Board. During this period of
26 suspension, Respondent shall not engage in any practice for which a license issued by the Board
27 is required, until the Board has notified Respondent that a mental health determination permits
28 Respondent to resume practice. This period of suspension will not apply to the reduction of this.

1 probationary time period.

2 If Respondent fails to have the above assessment submitted to the Board within
3 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
4 practice until notified by the Board. This period of suspension will not apply to the reduction of
5 this probationary time period. The Board may waive or postpone this suspension only if
6 significant, documented evidence of mitigation is provided. Such evidence must establish good
7 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
8 provided. Only one such waiver or extension may be permitted.

9 15. Therapy or Counseling Program. Respondent, at her expense, shall
10 participate in an on-going counseling program until such time as the Board releases her from this
11 requirement and only upon the recommendation of the counselor. Written progress reports from
12 the counselor will be required at various intervals.

13 ACCEPTANCE

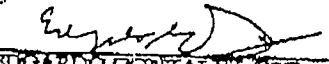
14 I have carefully read the above Stipulated Settlement and Disciplinary Order and
15 have fully discussed it with my attorney, Edgardo Gonzalez, Esq.. I understand the stipulation
16 and the effect it will have on my Registered Nurse License. I enter into this Stipulated
17 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
18 bound by the Decision and Order of the Board of Registered Nursing.

19 DATED: March 6, 2007

20 
21 LEIGH LINDA LYNCH
22 Respondent

23 I have read and fully discussed with Respondent Leigh Linda Lynch the terms and
24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
25 Order. I approve its form and content.


26 DATED: 3-6-07

27 
28 EDUARDO GONZALEZ, ESQ.
Attorney for Respondent

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED:

3/21/07


JONATHAN D. COOPER
Deputy Attorney General

DOJ Matter ID: SF2006401761
40130508.wpd

Exhibit A

Accusation No. 2007-75

1 BILL LOCKYER, Attorney General
of the State of California
2 JONATHAN D. COOPER, State Bar No. 141461
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
5 Facsimile: (415) 703-5480
6 Attorneys for Complainant

7
8 BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 LEIGH LINDA LYNCH
Box 3656
12 4059 Oak Avenue
Clearlake, CA 95422

13 Registered Nurse License No. 555458

14 Respondent.
15

Case No. 2007-75

OAH No.

ACCUSATION

16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about June 2, 1999, the Board of Registered Nursing issued
22 Registered Nurse License Number 555458 to Leigh Linda Lynch (Respondent). The Registered
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and
24 will expire on November 30, 2006, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1

2

6

9

10

14

18

19

21

22

24

25

26

1 failure to provide nursing care as required or failure to provide care or to exercise ordinary
2 precaution in a single situation which the nurse knew, or should have known, could have
3 jeopardized the client's health or life."

4 9. California Code of Regulations, title 16, section 1443, states:

5 "As used in Section 2761 of the code, 'incompetence' means the lack of possession
6 of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed
7 and exercised by a competent registered nurse as described in Section 1443.5."

8 10. California Code of Regulations, title 16, section 1443.5 states:

9 "A registered nurse shall be considered to be competent when he/she consistently
10 demonstrates the ability to transfer scientific knowledge from social, biological and physical
11 sciences in applying the nursing process, as follows:

12 "(1) Formulates a nursing diagnosis through observation of the client's physical
13 condition and behavior, and through interpretation of information obtained from the client and
14 others, including the health team.

15 "(2) Formulates a care plan, in collaboration with the client, which ensures that
16 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
17 protection, and for disease prevention and restorative measures.

18 "(3) Performs skills essential to the kind of nursing action to be taken, explains
19 the health treatment to the client and family and teaches the client and family how to care for the
20 client's health needs.

21 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
22 subordinates and on the preparation and capability needed in the tasks to be delegated, and
23 effectively supervises nursing care being given by subordinates.

24 "(5) Evaluates the effectiveness of the care plan through observation of the
25 client's physical condition and behavior, signs and symptoms of illness, and reactions to
26 treatment and through communication with the client and health team members, and modifies the
27 plan as needed.

28 "(6) Acts as the client's advocate, as circumstances require, by initiating action to

1 improve health care or to change decisions or activities which are against the interests or wishes
2 of the client, and by giving the client the opportunity to make informed decisions about health
3 care before it is provided."

4 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
5 request the administrative law judge to direct a licensee found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Sexual Relations with a Patient or Client)

10 12. Respondent is subject to disciplinary action under section 726 of the Code
11 in that she had sexual relations with a patient or client. The circumstances are as follows:

12 13. On or about January, 2003, through April, 2004, while working as a
13 Registered Nurse at the Community Care HIV/AIDS Program (hereinafter "CCHAP") in
14 Clearlake, California, Respondent engaged in sexual relations with D.B.,¹ a patient of CCHAP.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Unprofessional Conduct -- Gross Negligence/Incompetence)

17 14. Respondent is subject to disciplinary action under section 2761(a)(1) of
18 the Code in that she acted with gross negligence and/or incompetence. The circumstances are
19 as follows:

20 15. The facts set forth in paragraph 13, above, are incorporated herein by
21 reference. It is further alleged that on or about January, 2003, through April, 2004, Respondent
22 failed to identify significant changes to D.B.'s mental health; failed to formulate a nursing
23 diagnosis of D.B.; failed to evaluate D.B.'s after-care plan; and failed to act as D.B.'s advocate
24 by initiating action to improve his health care.

25 ///

26
27
28 1. The patient's initials are used here in order to maintain confidentiality. The full name of
D.B. will be disclosed to Respondent upon request.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 555458, issued
5 to Leigh Linda Lynch.

6 2. Ordering Leigh Linda Lynch to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
10

11 DATED: September 29, 2006

12
13 Ellen Hochley for
14 RUTH ANN TERKY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
20
21
22
23
24
25
26
27
28

SF2006401761

40107928.wpd